

Draft Scope of Work

Powertech (USA), Inc., Dewey-Burdock Project

Dewey-Burdock Project 6/19/12

Purpose: Identification of Properties of Religious and Cultural Significance

Background

The purpose of the activities described in this scope of work is to assist the U.S. Nuclear Regulatory Commission (NRC) and the USDI Bureau of Land Management (BLM) in meeting their obligations under Section 106 of the National Historic Preservation Act and the implementing regulation 36 CFR part 800. Federal agencies are required to take into account the effects of activities that they license or authorize on historic properties, including properties of religious and/or of traditional cultural significance or as commonly described as “properties” to federally recognized Indian tribes. The regulation describes a process through which the federal agency must identify properties of significance to tribes. Tribes evaluate the significance of those properties and their potential for eligibility to the National Register of Historic Places (NRHP). The federal agency is then informed of the results of the evaluation as determined from tribal knowledge and whether the proposed federal undertaking will have an effect on the historical integrity of all evaluated and eligible historic properties. If the effects of the undertaking would diminish the historical integrity of eligible historic or traditional cultural properties, the agency must identify measures that it will take to resolve those effects through avoidance, minimization, or mitigation strategies in consultation with Native, tribal, people. NRC, as the lead federal agency for Section 106 compliance, has requested that Powertech (USA), Inc. (Powertech) provide the agency with information about properties of religious and cultural significance to Indian tribes that may be affected by the company’s Dewey-Burdock in situ uranium recovery project. Map 1, attached, shows the general location of the project area.

Guidelines for Development of the Scope of Work

The standard for compliance with Section 106 is that the agency must make a “reasonable and good faith effort” to identify potentially affected historic properties (36 CFR 800.4(b)(1)). The Section 106 regulation provides for phased approaches to identification of historic properties (36 CFR 800.4(b)(2)). However, a phased approach is not conducive to the cultural interest and the overarching integrity tribes attach to landscape use and value of those sites attributable and contributing to the historical integrity of tribal peoples. The license boundary for the Dewey-Burdock Project includes several areas that will be directly and unequivocally subject to ground disturbance as part of the licensed undertaking. Because historic properties exist within the broad thematic of cultural use of the area of the mining endeavor as a whole, the entire area will be affected by the undertaking via viewshed and auditory disturbance; therefore all areas within the license description will be included in the identification efforts described in this scope of work.

This scope of work was developed by participating tribes, at the request of the Nuclear Regulatory Commission staff. At a February 14-15, 2012, consultation meeting regarding the Dewey-Burdock and Crow Butte projects, the interested tribes expressed their preference not to work directly with the applicants or with consultants for the applicants. Tribal review of a separate scope of work as prepared by Powertech and their third party consultants has occurred

in June of 2012 and this scope work incorporates the tribal revisions of the content to meet the need, reason, and purpose for a TCP survey of the entire license area by qualified and sanctioned tribal surveyors/monitors.

The federally recognized Indian tribes (interested tribes) that have participated in consultations with the NRC and BLM about this project have indicated that the appropriate method for identifying places of religious and cultural significance to them is through an examination of the ground surface by knowledgeable representatives from the interested tribes. The interested tribes have indicated, in consultations with the NRC and BLM, that the 30-meter interval survey transects generally used by archaeologists in the northern Plains region are too widely spaced to reliably encounter the kinds of cultural features that the tribes propose to identify. It is anticipated by tribes that a 10 meter interval for survey would be sufficient to identify features (sites) significant to tribal interest.

Statement of Work for the Dewey-Burdock License Area

The Dewey-Burdock Project is a proposed new in situ uranium recovery facility. The proposed federal undertaking is an NRC license for this facility and a BLM approval for a plan of operations. Map 2 (attached) shows the license area with the proposed processing facilities, well fields, existing land disturbance, and identified archaeological sites. The overall area within the license boundary for the Dewey-Burdock Project is approximately 10,580 acres. Extenuating use of the area by Native cultural interest over millennium is not contained within a defined corridor of operation or disturbance. Cultural utility of the area is recognized by tribes under a broad pattern of landscape use for food acquisition/processing, spiritual applications, celestially associated earth landforms, and socio-political agreements. While the color-coded areas shown on Map 3 (attached) graphically represent contiguous, well-buffered areas surrounding the actual proposed ground disturbance areas for the Dewey-Burdock Project; these well-buffered bounded areas will not provide sufficient protections to those sites as identified by Native investigators. Information garnered from the complete examination of the license area (10,580 acres) will result in the applicant having a completed report designed to assist the applicant in its capacity to place operations in those areas where no sites of significance to tribes will be impacted. A phased approach, while noteworthy, will result in on-going multiple investigations over ensuing multiple years and will ultimately result in delays in the proposed Dewey-Burdock project timelines. A completed and comprehensive survey of the entire area of license will negate the need for further and future investigations should plans change or areas to be affected are revised within the current license boundary. The results of a comprehensive identification approach will provide NRC and BLM with information that can be used to *fully* characterize the affected environment for the purposes of the National Environmental Policy Act (NEPA). This information will also serve as the basis for NRC and BLM decisions about the need for and parameters of any future changes in operations.

Compensation

Field work

Tribal Surveyor(s)

- \$ 58/hour for 8-hour work days for field identification and site recording by tribal surveyors per person
- \$ 87/hour for any work completed over 8 hours in a day or 40 hours per work week and holiday work during field identification and site recording per person

Crew Leader(s)

- \$ 63/hour for crew leaders for field identification and recording per person
- \$ 94.50/hour for any work completed over 8 hours in a day or 40 hours per work week and holiday work during field identification and site recording for crew leader per person

Traditional Cultural Expert(s)

- \$ 68/hour for traditional-culture experts for field work per person
- \$ 102/hour for any work completed over 8 hours in a day or 40 hours per work week and holiday work during field work per person

Travel

- \$ 20/hour for travel time, all personnel, actual hours from home base to Edgemont, SD, at the beginning of the project and return at the end of the project
- 0.55¢ per mile reimbursement for use of personal or tribal vehicles, actual mileage for all travel associated with project including, but not limited to, travel to and from home base to Edgemont, SD, travel to and from field from hotel or camp for field crew for all personnel

Per Diem

- \$ 46 per diem for all personnel for fieldwork days and travel days;

Lodging

- Actual Cost for single occupancy hotel room paid directly from Powertech to hotel per person per day

Miscellaneous:

- Insurance 162 dollars per day from beginning to end of project (5000 per month approximately)
- GPS unit : 150 per week per unit
- Porta-Potties – actual cost for rental billed direct to Powertech
- ATV – actual cost for rentals billed direct to Powertech

Report preparation

- \$ 55/hour per hour not to exceed 14 working days for Work Product 1
- \$ 55/hour per hour not to exceed 120 working days for Work Product 2
- \$ 55/hour per hour not to exceed 14 working days for Work Product 3
- Processing Fee for GPS Data: \$ 60/hour per hour not to exceed 30 working days

Overhead and Unexpected Costs

- 15% of total wages

Work Products

1. Within 14 working days after completion of field work, the point(s) of contact for the interested tribes will provide a brief (5 pages or less) confidential written summary of the fieldwork completed and the results of the fieldwork to NRC and the BLM. Because this information will be disclosed to the public through NRC's NEPA compliance process, it is essential that the document will contain only that information that does not need to be protected from disclosure.

2. Within 120 working days after completion of field work, the point(s) of contact for the interested tribes will provide to NRC sufficient information about any identified properties of religious and cultural significance to permit the agency to consult with the South Dakota State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officers (THPO's) about NRHP eligibility of these properties. This information will include the following:

- a. An identifying label for the property (for example, TCP-1, TCP-2, etc.)
- b. Location of TCP sites, either as digital data or plotted on 7.5 minute USGS quad maps
- c. A brief description of where the site is located in relationship to areas that will be directly impacted by planned operations.
impacted by planned operations.
- d. A narrative indicative as to the integrity of the property that can be applicable to the NRHP eligibility criteria.
eligibility criteria.

The significance assessment ("d" above) will focus on the potential for the property to meet one or more of the criteria of eligibility to the NRHP, as established in 36 CFR 60.4 and elaborated in National Register Bulletin 15 *How to Apply the National Register Criteria for Evaluation* and National Register Bulletin 38 *Guidelines for Evaluating and Documenting Traditional Cultural Properties*. While Bulletin 38 is a comprehensive document, it does not include identification parameters of those properties pertinent and significant to Northern Plains culturally distinctive unique characteristics. The integrity assessment may follow the guidance as described in National Register Bulletin 38. The interested tribes need not disclose specific information about the religious significance or meaning of any properties identified under this scope of work. The Section 106 process requires only information about the historical character of these properties as expressed by knowledgeable Native persons. This work product should also include any recommendations that the interested tribes will provide concerning the potential

NRHP eligibility under criteria other than criterion D for the previously identified archaeological sites in the salmon and lavender-colored areas on Map 3.

The information provided in this work product will be subject to protection from disclosure under the provisions of Section 304 of the National Historic Preservation Act.

3. Once consultation between NRC, SD-SHPO and Oceti Sakowin THPO's, has recommended determinations of NRHP eligibility for any identified properties of religious and cultural significance to the interested tribes, the point(s) of contact for the interested tribes will provide Powertech with the information described in 2.a-c above for any eligible properties. Powertech will sign a confidentiality agreement limiting use of this information to appropriate company personnel involved in project design or operation.

Schedule (note: these dates will be determined as part of the final scope of work)

Fieldwork to be completed by (DATE)

Summary information to be completed by (DATE)

Eligibility information for NRC to be completed by (DATE)

Information provided to Powertech for management purposes only to be completed by (DATE)

Access

Powertech will provide access to the properties, and a representative of Powertech will coordinate with crew leaders for fieldwork efforts in terms of access to land. The Powertech representative will utilize a GPS survey unit to identify map locations within the entirety of the lands set within the license area by the tribal representatives for ground examination and will guide the tribal cultural personnel to those locations in the field. The Powertech representative will also serve as liaison with the local landowners.

Insurance

All tribal representatives who will be present during field work will be required to provide proof of liability insurance in the amount of \$500,000 or more, or sign an indemnification statement that will hold harmless both the landowner and Powertech from any accidents that may occur in the field.